ROLES & RESPONSIBILITIES

PRIVACY ACT (PA) SYSTEMS OF RECORDS MANAGERS

THE PRIVACY ACT OF 1974

… IS A RECORDS MANAGEMENT STATUTE

* how and why we collect information

* how we maintain information

* who has access

* how long we will maintain

THE PRIVACY ACT REQUIRES THAT:

NOTICE BE GIVEN TO AN INDIVIDUAL WHENEVER PERSONALLY IDENTIFYING INFORMATION (PII) IS SOLICITED DIRECTLY FROM THAT INDIVIDUAL (PRIVACY ACT STATEMENT)

THE PRIVACY ACT REQUIRES THAT:

PUBLICATION BE MADE IN THE FEDERAL REGISTER FOR:

- any new PA System of Records collection (PA System of Records Notice)

- any existing PA Systems of Records collection where the data collection, purpose, authority, disposition, etc. has changed

- any proposed computer matching program

THE PRIVACY ACT REQUIRES THAT:

INFORMATION MAINTAINED IN PRIVACY ACT SYSTEM OF RECORDS FILE IS

- ACCURATE

- RELEVANT

- COMPLETE

- CURRENT

THE PRIVACY ACT REQUIRES THAT:

INDIVIDUALS ARE ALLOWED ACCESS TO RECORDS ABOUT THEMSELVES

- when maintained in a NONEXEMPT PA System of Records file.

THE PRIVACY ACT REQUIRES THAT:

"OFFICIAL" REQUESTS FOR NONCONSENSUAL DISCLOSURE OF INFORMATION BE PROCESSED IAW PROVISIONS ESTABLISHED BY THE PRIVACY ACT [5 U.S.C. §§ 552a(b)(1) through (b)(12)].

(b)(1) – For Official Use Only (within DoD)
(b)(2) – Required to be released by FOIA
(b)(3) – For pre-established official use (outside DoD)
(b)(4) – To Census Bureau (for census or survey)
(b)(5) – For statistical research
(b)(6) – To the National Archives
(b)(7) – For federal, state, and/or local civil or criminal law enforcement proceeding
(b)(8) – When health or safety of an individual is at issue
(b)(9) – For "official business" of Congress
(b)(10) – To GAO
(b)(11) – Pursuant to a court order
(b)(12) – To a consumer reporting agency under the Debt Collection Act (31 U.S.C. 3711(e).

THE PRIVACY ACT REQUIRES THAT:

INDIVIDUALS BE ALLOWED TO FIND OUT ABOUT ANY UNAUTHORIZED SHARING OR DISCLOSURE OF INFORMATION MAINTAINED IN THEIR RECORDS (DISCLOSURE ACCOUNTING RECORDS).

Note: Exceptions to disclosure accounting requirements:

- disclosure made pursuant to Exception (b)(1) (FOUO)
- disclosure made pursuant to Exception (b)(2) (FOIA)
- disclosure made pursuant to Exception (b)(7) (but only during the specific time that the civil or criminal law enforcement proceeding is ongoing)

THE PRIVACY ACT REQUIRES THAT:

INDIVIDUALS BE AFFORDED AN OPPORTUNITY AND MEANS BY WHICH TO CORRECT ANY INACCURACIES EXISTING IN THEIR RECORDS.

THE PRIVACY ACT PROVIDES -

U.S. citizens and lawful aliens with guaranteed rights -

- To access/amend their records

- To appeal agency decisions regarding access or amendment

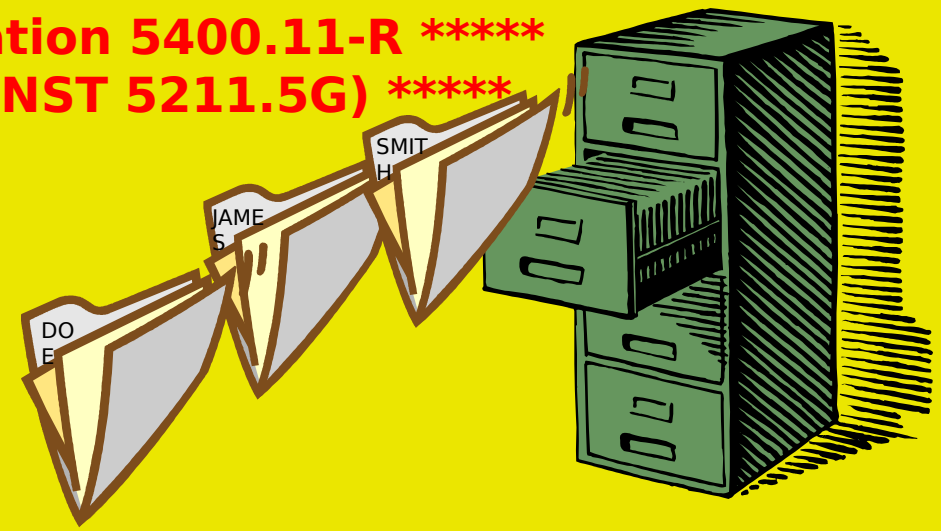
- To sue agencies for breaches/compromises

PA SYSTEM OF RECORDS MANAGER RESPONSIBILITIES

WHO IS A PRIVACY ACT SYSTEM OF RECORDS MANAGER?

Any official responsible for the maintenance of a collection of records whereby records are routinely retrieved by someone's name or other similar personal identifier?

******* See DoD Regulation 5400.11-R *******
******* (DON - SECNAVINST 5211.5G) *******



PA SYSTEM OF RECORDS MANAGER RESPONSIBILITIES

- **Ensure that staff personnel receive annual Privacy Act training.**
- **Ensure that no data collection is undertaken unless there is a Federal Register published PA System of Records Notice that allows for the data collection.**
- **Ensure that data access is limited only to those personnel who have a specific "need to know" – not necessarily to all office personnel!**
- **Ensure that personal data is transmitted in a secure manner.**
- **Ensure that personal data is properly safeguarded during and after duty hours.**
- **Ensure that personal data is properly disposed of (rendered unrecognizable and beyond reconstruction).**
- **Ensure that staff personnel comply with the Privacy Act, DoD Privacy rules (DoD 5400.11-R), and the DON Privacy Act Fair Information Principles.**

PA MANAGER'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

(1) IS YOUR STAFF PRIVACY TRAINED?

- CHECK TO SEE IF YOUR AGENCY HAS DEVELOPED PRIVACY TRAINING

  * DON has posted training at www.privacy.navy.mil/training

-ENSURE THAT YOUR STAFF COMPLETES PRIVACY TRAINING ANNUALLY

PA MANAGER'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

(2) ARE YOUR DATA COLLECTIONS PROPERLY CONDUCTED?

* Ensure your staff consults with your command Privacy Office before:

- Initiating new data collections.

- Adding new elements to an existing, approved database.

- Creating or revising forms that collect personal data.

- Deploying surveys.

PA MANAGER'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

* Ensure your staff consults with your command Privacy Office before:

- Initiating new data collections.

- Adding new elements to an existing, approved database.

- Creating or revising forms that collect personal data.

- Deploying surveys.

* Ensure your staff includes a Privacy Act Statement on all forms, surveys, or websites that collect personal data.

PA MANAGER'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

(3) IS YOUR STAFF SAFEGUARDING THE INFORMATION MAINTAINED IN YOUR FILES?

* Mark records "For Official Use Only – Privacy Sensitive" when created.

* For e-records, include "For Official Use Only – Privacy Sensitive" on data screens and in headers/footers of printouts.

* Place records in file cabinets, overhead bins, or desk drawers for overnight storage.

* Cover paper records when a third party enters your workspace.

* Use filter screens on terminals to blacken angular views.

PA MANAGER'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

(4) IS YOUR STAFF FOLLOWING THE PRIVACY ACT FAIR INFORMATION PRINCIPLES?

* Periodically ask your staff to review the Code of Fair Information Principles (available at www.privacy.navy.mil).

* Ask your staff to immediately report to you, the Command Privacy Office, of the Command Information Technology staff all instances of personal data being openly posted (no permission levels) to a public or shared website, e-workplace, shared calendar, or shared drive.

PA MANAGER'S ROADMAP FOR MEETING PRIVACY RESPONSIBILITIES

(5) ARE YOU KEEPING PRIVACY AT THE TOP OF YOUR STAFF'S MINDS?

* Use staff meetings to stress good Privacy practices.

* Voice your commitment to protecting individual privacy.

* Applaud workers who practice good privacy principles!

* Remind staff to use caution when posting data to shared drives, e-work-places, or multi-access calendars.

* Question workers who leave personal data in the open.

If You Have Access to Personal Data . . .

- **PKI Encrypt, UserID restrict, and/or password protect personal data placed on shared drives or the Intranet.**
- **Monitor your actions: If I do this, will I increase the risk of unauthorized access?**
- **Limit non-consensual access to those individuals who have an official need to know inside the agency and ensure that any non-consensual disclosures going outside the agency are permissible under Section (b) of the Privacy Act [5 U.S.C. 552a(b)(1) through (b)(12).**
- **It is your RESPONSIBILITY to protect personal information at all times.**

Remember:
You may be subject to civil and criminal penalties for violating the Privacy Act.

Civil Penalties for Noncompliance with the Privacy Act

The Privacy Act also imposes civil penalties on violators who:

* Unlawfully refuse to amend a record
* Unlawfully refuse to grant access to records
* Fail to maintain accurate, relevant, timely and complete data
* Fail to comply with any Privacy Act provision or agency rule that results in an adverse effect.

Penalties include:

* Payment of actual damages
* Payment of reasonable attorney's fees
* Removal from employment

Criminal Penalties for Noncompliance with the Privacy Act

- For knowingly and willfully disclosing Privacy Act data to any person not entitled to access:
  - Misdemeanor criminal charge, and a fine of up to $5000.
- For maintaining a System of Records without meeting the public notice requirements:
  - Misdemeanor criminal charge, and a fine of up to $5000.
- For knowingly and willfully requesting or obtaining records under false pretenses:
  - Misdemeanor criminal charge, and a fine of up to $5000.